

APPLICANTS: Silver et al.

SERIAL NUMBER: 10/789,480

REMARKS

Upon entry of the present amendment, claims 6, 13-17 and 19-25 are pending in this application. Claims 1-5, 7-11, and 26-34 are cancelled as drawn to non-elected inventions. Applicants reserve the right to prosecute the subject matter of these claims in one or more Divisional applications. Claims 12 and 18 cancelled without prejudice. Claim 6 is amended to include the limitations of cancelled claims 12 and 18. Claims 13-15 are amended to properly depend from claim 6 as amended. No new matter is added.

Claim Rejections under 35 U.S.C. §103

Claims 6, 12, 13, 14, 17, 21, 24, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baszczynski et al. U.S. Patent No. 6,187,994, referred to as "Baszczynski," in view of Qin et al. (1994) *Proc. Natl. Acad. Sci. USA* 91:1706-1710, referred to as "Qin."

Applicants traverse with respect to the claims as amended herein. Claim 6, from which the other claims properly depend, is amended to include the subject matter of claim 18, which is not subject to the instant rejection. The combination of Baszczynski and Qin do not teach or suggest the excision of a target gene such that the expression of said target gene is inactivated as required by claim 6 as amended. As such, Applicants submit that pending claims as amended herein are not obvious in view of the combination of Baszczynski and Qin and respectfully request withdrawal of the present rejection.

Claims 15 and 16 are also rejected under 35 U.S.C. §103(a) as being unpatentable over Baszczynski et al. (*supra*) in view of Qin et al. (*supra*) as applied to claim 12 herein above and further in view of Fitzmaurice et al. WO 93/07257, referred to as "Fitzmaurice."

Applicants traverse with respect to the claims as amended herein. Claims 15 and 16 properly depend from claim 6 and as such include all the limitations of claim 6. As described above, have amended claim 6 to include the subject matter of claim 18 and as such amended claim 6, and dependent claims 15 and 16, are non-obvious over Baszczynski in view of Qin. Fitzmaurice fails to correct the deficiencies of Baszczynski and Qin. The combination of Baszczynski, Qin and von Fitzmaurice do not teach or suggest the excision of a target gene such that the expression of said target gene is inactivated as required by claim 6 as amended. As such, Applicants submit that pending claims as amended herein are not obvious in view of the

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combination of Basczynski, Qin and von Fitzmaurice and respectfully request withdrawal of the present rejection.

Claims 6, 17-23, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson et al., US Patent No. 5,629,159 (made of record in the IDS filed 26 February 2004), referred to as "Anderson."

Applicants traverse with respect to the claims as amended herein. Claim 6, from which the other claims properly depend, is amended to include the subject matter of claim 12, which is not subject to the instant rejection. Anderson does not teach or suggest the excision of a target gene in a plant cell such that the expression of said target gene in said plant is inactivated as required by claim 6 as amended. As such, Applicants submit that the pending claims as amended herein are not obvious in view Anderson and respectfully request withdrawal of the present rejection.

Claims 6, 17-22, 24, and 25 are further rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of von Melchner et al. WO 97/07223, referred to as "von Melchner."

Applicants traverse with respect to the claims as amended herein. As described supra, Applicants have amended claim 6 to include the subject matter of claim 12 which is not subject to the instant rejection. The combination of Anderson and von Melchner do not teach or suggest the excision of a target gene in a plant cell such that the expression of said target gene in said plant is inactivated as required by claim 6 as amended. As such, Applicants submit that pending claims as amended herein are not obvious in view of the combination of Anderson and von Melchner and respectfully request withdrawal of the present rejection..

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CONCLUSION

On the basis of the foregoing amendment and remarks, Applicants respectfully submit that the pending claims are in condition for allowance and a Notice of Allowance for the pending claims is respectfully requested. If there are any questions regarding this application that can be handled in a phone conference with Applicants' Attorneys, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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